

***United States Court of Appeals  
for the Second Circuit***

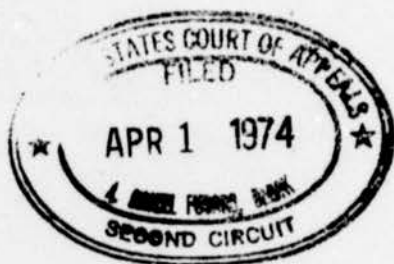


**APPELLANT'S  
APPENDIX**



74-1122

B  
H/S (IN  
BRG)



Appendix

H. G. SKIDMORE  
95-18 BALDWIN AVE  
FOREST HILLS N.Y.  
11375

APPELLANT'S APPENDIX  
on  
BRIEF of APPEAL

FILE 74-1122

"A" Docket entries of File 73 C 717	1 page
"B" Docket entries of File 73 C 901	1 page
"C" Memorandum and Order of Hon. Jack B. Weinstein United States District Court Eastern Dist. N.Y.	5 pages
"D" First attempt to have Union Rep.Prot. vacation	23 pages
"E" Second " " " " " " "	37 pages
"F" Letters received from Robert M. Peet, Esquire	3 pages
"G" Court exhibit 1 Agreement Rules Manual modified and revised to September 1, 1949	183 pages
"H" Court exhibit 2 Memorandum Of Agreement dated October 6, 1954	24 pages
"I" Court exhibit 3 Award No. 19553 of NRAB	4 pages
"J" Letters indication of no action by Union	19 pages
"K" Present Agreement Rules Manual effective February 1, 1968. Petitioner considers Local and not Nationally handled.	189 pages
"L" Letter to Mr. E.A.Killeen of NRAD d'td.11/9/72	1 page
"M" Letter from Mr.E.A.Killeen d'td. 11/15/72	1 page

11 B

73C 717

H. G. SKIDMORE v. NATIONAL RAILROAD ADJUSTMENT BOARD

DATE	FILINGS—PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURN	
5-21-73	Complaint filed.	1	JS
6-6-73	Letter from E.A. Killeen dtd 6-4-73 with annexed records filed.	2	
8-17-73	Notice of motion for leave to intervene as defts ret 9-7-73 filed.	3	
8-17-73	Trustees' memorandum of law on motion to dismiss petition filed.	4	
9-7-73	Letter from Roy J. Carvatta dtd 8-17-73 filed in 73C-901.	--	
9-13-73	Before WEINSTEIN, J.--Case called on deft's motion for leave to intervene as defts, etc. Adj'd to 10-2-73 at 9:30 am.		
9-17-73	Pltff's affidavit in opposition to motion to dismiss filed.	5	
9-21-73	Pltff's affidavit in opposition to motion to intervene filed. (inadvertently returned to pltff by Clerk on 9-17-73).	6	
9-21-73	Letter from H.G. Skidmore to Clerk dtd 9-20-73 filed.	7	
9-25-73	Letter from pltff dtd 9-22-73 with annexed letter dtd 9-20-73 filed.	8	
10-2-73	Before WEINSTEIN J. Case called on defts motion to dismiss & for summary judgment in cases 73C-717 & 73C-901 and for leave to intervene, Hearing ordered & begun Pltffs motion to amend is granted-Amendments may be supplied by letter within one month-Trustees motion to intervene is granted-Hearing concluded Motions are deemed submitted at time final papers are received and decision is reserved.		
10-10-73	Letter from Roy J. Carvatta dtd 10-1-73 filed.	9	
11-7-73	By WEINSTEIN, J.--Memorandum and order dtd 11-7-73 dismissing petition filed. Copies mailed to parties.	10	
11-9-73	Intervening Defts' reply to petitioner's amendment of his petition & to petitioner's memorandum of law filed.	11	
12-28-73	Notice of appeal filed. Duplicate mailed to C of A & deft. jn	12	
1-18-74	Petitioner's reply to amend original petition filed.	13	
1-18-74	Petitioner's reply to trustees' reply memorandum filed.	14	
1-18-74	Trustees' reply memorandum of law filed.	15	
1-18-74	Letter from E.A. Killeen dtd 6-27-73 with annexed copy of record filed.	16	

2/1/74  
A TRUE COPY ATTEST

LEWIS ORGEL, CLERK  
Maryann Burren, DEPUTY CLERK

"A"



73C 901

H.G. SKIDMORE

vs. NATIONAL RAILROAD ADJUSTMENT BOARD

DATE	FILINGS-PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURNS	
6/21/73	Complaint filed- <del>XXXXXXXXXXXX</del> Copy of petition mailed to Nat'l R.R. Adjustment Board,	1	JS
8-7-73	By WEINSTEIN, J. Order dated August 6, 1973 for pre-trial Conference on October 2, 1973 at 9:30. FILED.	2	
8-17-73	Notice of motion for leave to intervene as defts ret 9-7-73 filed.	3	
8-17-73	Trustees' memorandum of law on motion to dismiss petition filed.	4	
9-7-73	Letter from Roy J. Carvatta dtd 8-17-73 filed.	5	
9-7-73	By WEINSTEIN, J. - Order dtd 9-1-73 setting 10-2-73 for pre-trial conference filed on document #5. (deft notified).	--	
9-17-73	Pltff's affidavit in opposition to motion to intervene filed.	6	
9-21-73	Pltff's affidavit in opposition to motion to dismiss filed (inadvertently returned by Clerk on 9-17-73).	7	
10-2-73	Before WEINSTEIN, J. Case called Defts motion to dismiss & for summary judgment in cases 73C-717 & 73C-901 and for leave to intervene. Hearing ordered & begun. Pltffs motion to amend is granted-Amendments may be supplied by letter within one month-Trustees motion to intervene is granted-Hearing concluded Motions are deemed submitted at time final papers are received and decision is reserved.	--	
10-10-73	Letter from Roy J. Carvatta dtd 10-1-73 filed in 73C-717.	--	
11-7-73	By WEINSTEIN, J.--Memorandum and order dtd 11-7-73 dismissing petition filed in 73 C 717. Copies mailed to parties.	---	
11-9-73	Intervening Defts' reply to petitioner's amendment of his petition & to petitioner's memorandum of law filed in 73C717	---	
12-28-73	Notice of appeal filed. Duplicate mailed to C of A & deft. <i>ju</i>	8	

2/1/74  
A TRUE COPY ATTEST

LEWIS ORGEL, CLERK  
*Maryann Burns*  
DEPUTY CLERK

B<sup>4</sup>

Lewis Orgel  
Clerk

UNITED STATES DISTRICT COURT  
Office of the Clerk  
Eastern District of New York  
U.S. Court House  
Brooklyn, New York 11201

November 7, 1973

Mr. H.G. Skidmore  
95-18 Bladwin Avenue  
Forest Hills, New York

Re: H.G. Skidmore -vs- National  
Railroad Adjustment etc. 73 C 717.

Dear Sir:

I enclose a copy of the memorandum and order of Hon. JACK B.

WEINSTEIN, U.S.D.J. filed herein on 11-7-73

in the above entitled matter.

Very truly yours,

LEWIS ORGEL  
CLERK OF THE COURT

BY: Thomas B. Costello  
THOMAS B. COSTELLO  
CHIEF DEPUTY CLERK

Encl.

cc: National Adjustment Board  
Robert M. Peet, Esq.

7C4, 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN CLERK'S OFFICE  
U. S. DISTRICT COURT E.D. N.Y.

★ NOV 7 1973 ★

11:45 A.M. ....  
P.M. ....

-----X  
H. G. SKIDMORE,

Plaintiff,

-against-

NATIONAL RAILROAD ADJUSTMENT  
BOARD, THIRD DIVISION,

.....Defendant.  
-----X

MEMORANDUM AND ORDER

73 Civ. 717 ✓

73 Civ. 901

A P P E A R A N C E S:

H. G. Skidmore, Pro Se

National Railroad Adjustment Board  
220 South State Street  
Chicago, Illinois

Robert M. Peet, Esq.  
Attorney for Intervenor-Defendants George P. Baker,  
Richard C. Bond and Jervis Langdon, Jr., as  
Trustees of the Property of the Penn Central  
Transportation Company, Dbtor  
466 Lexington Avenue  
New York, New York 10017

WEINSTEIN, D.J.

(10)



Plaintiff has been employed in the Sales and Service Section, Ticket Office, Reservation and Information Bureau at the Pennsylvania Station, New York, New York. As an employee of the Penn Central he was entitled to a number of Benefits, including the right to extensive pass privileges permitting him to utilize railroads in this country and abroad.

When the National Railroad Passenger Corporation (AMTRAK) took over passenger operations, new arrangements were entered into and, apparently, the pass and other privileges were substantially reduced. There are also contentions with respect to a Vacation Agreement claimed to have been violated, for example, by the Penn Central's beginning vacations on Saturday.

Prior applications to the National Railroad Adjustment Board have been rejected. See Award No. 19454, Docket No. MS-19575, October 30, 1972; Award No. 19554, Docket No. MS-19476, January 10, 1973.

From the oral argument it appears that plaintiff's union has shown little interest in his claims. It would seem that other workers consider other matters, such as wages and other benefits, more important than the pass and vacation issues. A great deal of discretion has to be given to a union and employer to work out arrangements which may benefit some employees more than others. It may well be that petitioner obtained more enjoyment from

his pass privileges than did other employees and considers them of more importance than do other employees, who might prefer raises or other types of benefits. This kind of trading off in negotiation normally is best left for the unions and employer to work out. This is particularly true in light of the serious financial problems faced by the Penn Central and other passenger railroads and the complex arrangements involved in AMTRAK's taking over passenger service in the nation. While these facts do not bear on the issue of reviewability, they suggest why courts are loath to overturn decisions in this area.

Awards are binding and final since there was no failure to conform with the Railway Labor Act. See 45 United States Code, §§ 153(m), (q); Brotherhood of Rail Signal v. Chicago M., St. P. and P.R. Co., 444 F. 2d 1270 (7th Cir. 1971); Brotherhood of Railroad Trainmen v. Central of Ga. Ry. Co., 415 F. 2d 403 (5th Cir. 1969), cert. denied, 396 U.S. 1008, 90 S. Ct. 564 (1970). Cf. Andrews v. Louisville & Nashville Railroad, 406 U.S. 320, 92 S. Ct. 1562, 1565 (1972) (dictum). It cannot be said that the decisions were baseless and without reason. Johnson v. Interstate Railroad, 345 F. Supp. 1082 (W.D. Va. 1972); McDonald v. Penn Central Transportation Co., 337 F. Supp. 803 (D.C. Mass. 1972). No fraud or corruption was involved in the decision of the Board. See

4

Southern Pacific Company v. Wilson, 378 F. 2d 533, 537 (5th Cir. 1967). This court lacks authority to grant relief.

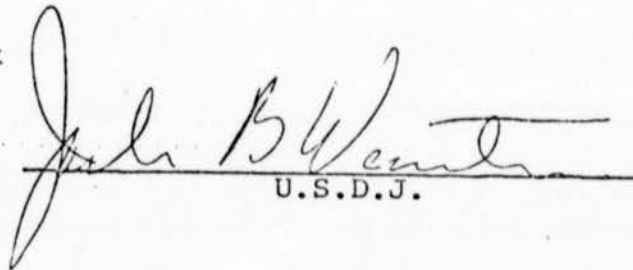
The orders of the Division of the Adjustment Board are affirmed. The petition is dismissed.

The Clerk of the Court is directed to send copies of this Memorandum and Order to all parties.

So ordered,

.....

Dated: Brooklyn, New York  
November 7, 1973

  
U.S.D.J.



**PENN CENTRAL TRANSPORTATION COMPANY**

GEORGE P. BAKER, RICHARD C. BOND, JERVIS LANGDON, JR., ██████████ TRUSTEES

LEGAL DEPARTMENT  
466 LEXINGTON AVENUE  
NEW YORK, N.Y. 10017

Robert M. Peet  
General Attorney  
August 16, 1973

H. G. Skidmore  
95-18 Baldwin Avenue  
Forest Hills, New York 11375

RE: H. G. SKIDMORE v. NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION - USDC, EDNY - 73 C 717 and 73 C 901

Dear Sir:

I enclose copies of papers already mailed to you. The only difference between these and the earlier papers is in the title of the action.

I understand from the clerk of the court that the Judicial Conference for those judges in this circuit who are able to attend, takes place on September 6th and 7th. I have been unable to reach Judge Weinstein before whom these motions are returnable, to find out if he will be attending the Judicial Conference since he is presently on vacation. If, upon the judge's return after Labor Day, I find that a new date will have to be set for the hearing of the motions, I shall try to advise you.

If you have not heard from me by September 6th, you may want to call my office (340-2504) to find out what the situation is, assuming that you desire to be present.

Very truly yours,

*Robert M. Peet*  
Robert M. Peet

RMP:mtm

Encs.

F. 1.



**PENN CENTRAL TRANSPORTATION COMPANY**

GEORGE P. BAKER, RICHARD C. BOND, JERVIS LANGDON, JR., ██████████, TRUSTEES

LEGAL DEPARTMENT  
466 LEXINGTON AVENUE  
NEW YORK, N.Y. 10017

Robert M. Peet  
General Attorney  
September 4, 1973

H. G. Skidmore  
95-18 Baldwin Avenue  
Forest Hills, New York 11375

RE: H. G. SKIDMORE v. NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION - USDC, EDNY - 73 C 717 and 73 C 901

Dear Sir:

We understand from Judge Weinstein that all hearings set  
for September 7th are being postponed one (1) week to September 14th.

Very truly yours,

*Rm Peet*

Robert M. Peet

RMP:mtm

"F" 2





**PENN CENTRAL TRANSPORTATION COMPANY**

GEORGE P. BAKER, RICHARD C. BOND, JERVIS LANGDON, JR., ██████████, TRUSTEES

LEGAL DEPARTMENT  
466 LEXINGTON AVENUE  
NEW YORK, N.Y. 10017

Robert M. Peet  
General Attorney  
September 10, 1973

H. G. Skidmore  
95-18 Baldwin Avenue  
Forest Hills, N.Y. 11375

RE: H. G. SKIDMORE v. NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION--USDC, EDNY-- 73 C 717 and 73 C 901

Dear Sir:

We received notification today from Judge Weinstein's chambers that the hearing set for September 14th in the above captioned matter has been postponed to October 2, 1973 at 9:30 A.M.

Very truly yours,

Robert M. Peet

RMP:mtm

"F" 3

Mr. E. A. Killeen  
Executive Secretary Third Division  
National Railroad Adjustment Board  
220 South State Street  
Chicago, Illinois 60604

November 9th, 1972

Dear Mr. Killeen:

Receipt of the National Railroad Adjustment Board decision on Docket No 19575 - Award No. 19454 is herewith acknowledged.

Will you be good enough to explain where or how the Petitioner did not show conclusively in the exhibits and submissions that the question relative to the Merger Protective Agreement (introduced by the Petitioner) and the February 7, 1965 Agreement (introduced by the Carrier) was not processed in the correct manner on the property and therefore before the Adjustment Board properly?

Also, why if the Amtrak pass issue is a moot question, for this is what the grievance for unjust treatment was about, was it dismissed?

Waiting your early reply,

Sincerely,

*H. G. Skidmore*

H. G. Skidmore  
Sales & Service Clerk  
Reservation & Information Bu.  
Penn Central Transp. Co.,  
Pennsylvania Station  
New York, N. Y.

1/4

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

220 SOUTH STATE STREET

CHICAGO, ILLINOIS 60604

November 15, 1972

Mr. H. G. Skidmore, Sales & Service Clerk  
Reservation & Information Bureau  
Penn Central Transportation Company  
Pennsylvania Station  
New York, New York 10001

Re: Award No. 19454, Docket No. MS-19575

Dear Sir:

This will acknowledge receipt of your letter dated November 9, 1972, stating:

"Will you be good enough to explain where or how the Petitioner did not show conclusively in the exhibits and submissions that the question relative to the Merger Protective Agreement (introduced by the Petitioner) and the February 7, 1965 Agreement (introduced by the Carrier) was not processed in the correct manner on the property and therefore before the Adjustment Board properly?

Also, why if the Amtrak pass issue is a moot question, for this is what the grievance for unjust treatment was about, was it dismissed?

Waiting your early reply,"

I have been directed by the Division to call your attention to Section 3, First (m) of the Railway Labor Act reading:

"The awards of the several divisions of the Adjustment Board shall be stated in writing. A copy of the awards shall be furnished to the respective parties to the controversy, and the awards shall be final and binding upon both parties to the dispute"

and the Board can add nothing to the Award as written.

Very truly yours,

*E. A. Killeen*

E. A. Killeen  
Executive Secretary

AWP/dt

4M4

